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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,291	04/05/2001	Colin A. Waters	9385	5721
26884	7590	05/24/2005	EXAMINER	
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			ABDI, KAMBIZ	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/827,291	WATERS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kambiz Abdi	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 January 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

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### **DETAILED ACTION**

1. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.

- Claims 1, 3, 4, 8, and 13 are amended.
- Claims 5 and 12 are canceled.
- Claims 15-17 are added
- Claims 1-17 have been considered.

2. Examiner withdraws the objection to claims 2 and 4 due to corrections and amendments by the applicant.

#### ***Response to Amendment***

3. Applicant's arguments with respect to claims 1-14, filed 14 January 2005, have been fully considered but they are not persuasive as well as but they are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,662,166 to David Ferrin Pare, JR. et al. in view of U.S. Patent No. 6,202,151 to Clyde Musgrave.

4. As per claims 1, 3, 6, 8, 13, and 15, Pare clearly teaches a system and method for providing consumer access to a financial account to implement a transaction comprising:

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a biometric data capture device for reading consumer biometric data (See pare figure 1 and 2 and associated text); and

a database server for generating a data storage key from the consumer biometric data received from the biometric data capture device and for retrieving a financial account data record corresponding to the generated data storage key (See Pare figure 2 and 3 and associated text, column 4, lines 34-37, column 5, lines 15-55, column 6, lines 67-13 and lines 47-54, and column 9, lines 54-58)

a payment device for sending said compared biometric data to a merchant payment host as the identifier for the consumer's financial account data (See Pare figure 2 and 3 and associated text, column 4, lines 34-37, column 5, lines 15-55, column 6, lines 67-13 and lines 47-54, column 9, lines 54-58, and column 15, lines 24-67).

an identity database comprised of data records stored with reference to a data storage key corresponding to biometric data contained within the data record so that the database server may retrieve records from the identity database using data storage keys generated from the received biometric data (See Pare figure 2 and 3 and associated text, column 4, lines 34-37, column 5, lines 15-55, column 6, lines 67-13 and lines 47-54, column 9, lines 54-58, column 11, line 46-column 12, line 23, and column 15, lines 24-67).

What is not clear and explicit from the teachings of Pare exactly how a digital signature (certificate) is generated from the biometric information (See Pare column 12, lines 5-23). How ever, Musgrave is specific and clear on application and use of specific biometric information and creating a hash value of the information and signing the biometric certificate and forwarding the data to the authenticating authority (See Musgarve column 5, line 15-column 6, line 24). Therefore, it would have been obvious to one having ordinary skill in the art at the time the current invention was made to apply the Musgrave method and system within the method and system of Pare for the motivation of further enhancement of both security as well as accuracy as well as reduction of computational resources (See Musgrave column 3, lines 8-22)

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5. As per claims 2, 4, 7, 9, 10, and 16, Pare clearly teaches all the limitations of claims 1, 3, 6, 8, and 9, further Pare teaches;

a payment device coupled to said biometric data capture device, said payment device generating a digital signature from said biometric data for a transaction message (See Pare column 9, lines 16-31, lines 49-52, and lines 59-64, and column 12, lines 5-23).

6. As per claims 11, 14, and 16, Pare clearly teaches all the limitations of claims 9, 13, and 15 further,

comparing the generated digital signature to a received digital signature to authorize generation of electronic funds in response to said generated digital signature corresponding to said received digital signature (See Pare column 12, lines 5-23).

***Conclusion***

7. Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to **Kambiz Abdi** whose telephone number is **(571) 272-6702**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **(571) 272-6712**.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

<http://portal.uspto.gov/external/portal/pair>

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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or faxed to:

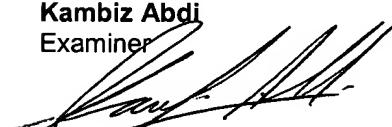
**(703) 305-7687 [Official communications; including After Final communications labeled "Box AF"]**

**(703) 308-1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]**

Hand delivered responses should be brought to the Examiner in the

**Knox Building, 50 Dulany St. Alexandria, VA.**

**Kambiz Abdi**  
Examiner

  
**May 15, 2005**